



TOWN OF BROOKLINE

Massachusetts

BOARD OF APPEALS

DIANE R. GORDON, Co-Chair
HARRY MILLER, Co-Chair
BAILEY S. SILBERT

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Brookline, MA 02445
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PATRICK J. WARD, Secretary

TOWN OF BROOKLINE BOARD OF APPEALS CASE NO. BOA060041

Petitioner, K Spellman Trust, applied to the Building Commissioner for permission to construct an addition to the existing retail and office building per plans at 1309 Beacon Street. The application was denied and an appeal was taken to this Board.

On May 25, 2006, the Board met and determined that the properties affected were those shown on a schedule in accordance with the certification prepared by the Assessors of the Town of Brookline and approved by the Board of Appeals and fixed August 31, 2006, at 7:30 p.m., as the time and place of a hearing on the appeal in the Selectmen's Hearing Room on the sixth floor of the Town Hall. Notice of the scheduled hearing was mailed to the Petitioner, to its attorney (if any of record), to the owners of the properties deemed by the Board to be affected as they appeared on the most recent local tax list, to the Planning Board and to all others required by law. Notice of the scheduled hearing was published August 10, 2006 and August 17, 2006, in the Brookline Tab, a newspaper published in Brookline. Copy of said notice is as follows:

**TOWN OF BROOKLINE
MASSACHUSETTS
BOARD OF APPEALS
NOTICE OF HEARING**

Pursuant to M.G.L.C. 39, sections 23A & 23B, the Board of Appeals will conduct a public hearing to discuss the following case:

Petitioner: Spellman K et al, Trustee

Location of Premises: **1309 BEACON STREET, BRKL**

Date of Hearing: **08/31/2006**

Time of Hearing: **7:30 p.m.**

Place of Hearing: **Selectmen's Hearing Room, 6th. Floor**

A public hearing will be held for a variance and/or a special permit from

- 1) 4.01.3.a.b; Permitted Uses; Special Permit Required**
- 2) 4.03; Pre-Existing Special Permit Uses; Special Permit Required**
- 3) 4.07; Table of Use Regulations; Use #20; Use #21; Use #29; Use #30; Use #31; Use #32; Use #33; Use #34; Special Permit Required**
- 4) 5.09.2.a.b; Design Review; Special Permit Required and 5.09.e; Plan Revisions; Board of Appeals Public Hearing and Special Permit Required**
- Board of Appeals Decision; Case #2730, dated August 2, 1985; Modification Required**

to construct an addition to the existing Retail and Office Building per plans

at **1309 BEACON STREET BRKL.**

Said Premise located in a **G-1.75** district.

*The Town of Brookline does not discriminate on the basis of disability in admission to, access to, or operations of its programs, services or activities. Individuals who need auxiliary aids for effective communication in programs and services of the Town of Brookline are invited to make their needs known to the **ADA Coordinator, Stephen Bressler, Town of Brookline, 11 Pierce Street, Brookline, MA 02445. Telephone: (617) 730-2330; TDD (617) 730-2327.***

**Diane R. Gordon
Harry Miller
Bailey Silbert**

Published: 08/10/2006 and 08/17/2006

At the time and place specified in the notice, this Board held a public hearing. Present at the hearing were Board members Diane R. Gordon, Murray Shocket and Sara Sheldon. Petitioner was represented at the hearing by Attorney Jeffrey P. Allen of Seegel, Lipshutz & Wilchins, P.C.

At the hearing, Tim Greenhill, Planner of the Planning Department distributed the Planning Board Report dated August 10, 2006. Mr. Allen then described the factual background for the petition as follows:

The site numbered 1309 Beacon Street has in the past been used as a Gulf gas station and an open air parking lot. On August 2, 1985, approval was given for a three story commercial/ retail building with accessory parking, which exists today. This prominent rectangular lot has frontage on three streets; Beacon, Longwood and Sewall Avenue, and is located at the heart of Coolidge Corner, a major shopping district. There are extra-wide curb cuts onto Beacon Street and Longwood Avenue.

The existing site consists of the three story building with an asphalt alley on the eastern side and an asphalt parking lot in the rear. A lower level garage provides parking spaces for up to 74 vehicles. A special permit was granted allowing a portion of these spaces to be constructed as tandem spaces. The ground floor of the building is used as retail and is currently predominately occupied by Trader Joes. In addition to the underground parking, thirty-five spaces are located at grade. The top two levels are utilized as office space. The second and third floors extend vertically on elevation facing Beacon Street but are stepped back at the rear elevation. A patio is located on the second floor elevation above the garage entrance.

The immediate neighborhood consists primarily of retail and office buildings with apartment development on the periphery, and is served with MBTA trolley and bus lines. The post office is located two buildings to the east on Beacon Street. The neighborhood on the Longwood and Sewall Avenue side of the building is primarily residential in nature.

The Petitioner is proposing to construct a 3,212 square foot addition on the eastern elevation of the Center Place building. The proposal includes an additional 1,812 square feet of retail floor space and 1,400 square feet of commercial office space. The addition will have an entrance only on Beacon Street. The proposal will have a 2-story façade onto Beacon Street and will step back to a single story at the rear of the building. The second story office area will be combined with the existing office space on the second floor.

Mr. Allen noted that the plan that was before the Board tonight was not the plan originally presented to the Planning Board. The original plan has been modified to incorporate many concerns expressed by neighbors and Planning Board members. The most significant change from the original plan was changing the proposed site of the dumpster to an area which would not impact the surrounding residential neighbors. Mr. Allen stated the proposal now has the unanimous support of the Planning Board.

The addition is proposed to be constructed of brick with granite and storefront glass to match the existing retail and commercial building. The north facing elevation is angled towards the road forming a point at the intersection of the front and side property lines. The new eastern elevation will feature three “punch out” windows to enable future addition of windows if open space should be provided on the adjacent lot in the future, as

being discussed by the Coolidge Corner District Council, rather than a building constructed to the side property line. Light from the existing windows to be removed on the eastern elevation will be replaced by rooftop skylights.

With respect to parking, Mr. Allen explained that the site contains sufficient parking for the addition with 74 garage spaces and 35 surface spaces. The required parking for the building after the addition is 95 spaces, less than the 109 spaces available. At night and on weekends, 20 parking spaces are provided at the adjacent lot at 1319 Beacon Street, which is in common ownership with 1309 Beacon Street, and 31 spaces at the parking lot at 1299 Beacon Street. Mr. Allen further explained that it would be difficult and impractical to allow retail customers to park in the underground garage on the site because shopping carts could not safely be maneuvered down the steep parking ramp, and the 35 residential overnight and weekend parkers would have to be eliminated. Per the Petitioner's parking analysis, the required parking for the existing ground floor retail uses would be 46 parking spaces and for the new ground floor 5 spaces, for a total of 51 spaces. Thirty-five surface spaces are available for retail users, as a card is required to enter the underground garage. However, retail employees do park in the garage. The required parking for the existing upper floors is 41 spaces, and for the new upper floor is 2 spaces, for a total of 43 spaces. The entire site with the addition requires 94.5 spaces, and there are 109 spaces on the site.

Mr. Allen reviewed the zoning relief necessary for this project to go forward. The zoning relief required is as follows:

Coolidge Corner Overlay District Design Guidelines

Section 3.03.6 of the Zoning Bylaw requires that any new development within the Coolidge Corner Overlay District comply with the established Design Guidelines. The

following is a summary of the relevant guidelines as they relate to the proposal and the factual basis for the determinations that this proposal complies.

1.1 Mechanical Equipment, Trash Storage and Service Entrances – The design guidelines encourage the storage of trash to be within the building footprint or screened from public view. The proposed addition is located on the current dumpster and storage area. The compactor will be located adjacent to the rear of the building.

1.4 Maximum Ground Level Frontage Requirement – The proposal includes a retail ground floor use as recommended in the Design Guidelines.

1.5 Ground Level Uses in Commercial Districts – The proposal will promote an active retail ground floor and a pedestrian friendly streetscape.

2.3 Building Entrance Location – The proposal has two active visible pedestrian orientated entrances to the site that will serve to enhance street activity in these locations.

2.4 Spacing of Residential and Commercial Entrances – The proposal will increase the number of storefronts along Beacon Street and enhance the existing active commercial setting as recommended by the design guidelines.

2.5 Minimum Glazing Requirements for Ground Level Commercial Uses – The proposal creates a façade with a large windowed surface that will create a clear view from the sidewalk into the interior space of the building consistent with the design guidelines.

2.7 Knee-wall Height Requirements – The proposal includes a two and ½ foot knee wall consistent with the design guidelines and with the existing knee-walls on the remainder of the building.

3.3 Building Elements – The building uses elements of the existing structure such as the repeating arch along the Trader Joes store front and the glazing elements of the EB Games storefront.

Section 4.01.3.a/b – Permitted Uses – As the proposal is located in a G-1.75 District along Beacon Street the proposal requires a **special permit**.

Section 4.03 – Pre-Existing Special Permit Uses – Because the structure is changing a **special permit** is required.

Section 4.07 – Table of Use Regulations (Uses #20, #21, #29, #30, #31, #32, #33, #34) – As the property is located on Beacon Street all uses require a **special permit** per Section 4.01.3.

Section 5.09.2.a.h – Design Review - This property is located on Beacon Street and is therefore subject to design review. All of the standards in paragraph (d) have been met.

Modification to Board of Appeals Case # 2730

The Board of Appeals issued a decision on August 2, 1985 in regards to this property and issued specific conditions in regards to the types of materials to be used for construction, hours of operation, uses allowed and signage. This Decision should be modified for this proposal.

The Chairperson, Ms. Gordon, asked if any of the members of the public wished to speak in support of or in opposition to the project. Several members of the public expressed concern that the addition would increase traffic and congestion already present at Trader Joes.

Tim Greenhill, on behalf of the Planning Board, gave the following report:

The Planning Board supports the proposed two-story addition at Center Place and believes that the revised plans to modify the façade by reducing the amount of glazing at the upper level of the addition, relocate the compactor away from Sewall Avenue, and install "punch out" windows on the east façade to respond to possible future development at the adjacent site are significant improvements to the proposal. Additionally, at the Planning Board meeting, the Petitioner proposed to revise the parking layout plan to improve the traffic circulation by relocating the curb cut and agreed to provide angled parking for some of the spaces. Therefore, the Planning Board voted unanimously to recommend approval of the plans by HDS, dated July 31, 2006 subject to conditions.

Frank Hitchcock, Senior Building Inspector, spoke on behalf of the Building Commissioner. He restated the various sections of the Zoning By-Law under which relief is needed. The Building Department has no objections to the petition and will ensure that all State Code provisions are satisfied.

The Board having deliberated on this matter and considered the foregoing testimony concludes that it is desirable to grant all relief required by this project, subject to certain conditions.

The Board considered the visual relationships of the proposed two-story addition to the use, scale, and architecture of the existing building and surrounding community. The Board has considered whether the proposal creates harmonious visual relationships and the Board has determined that the relationship is, in general, harmonious. The Board further finds that the proposed two-story addition will not be more detrimental to the

neighborhood than the existing conditions. The use as proposed to be developed and the site design are aesthetically pleasing. The proposed design is adequate and appropriate for the neighborhood. The proposed use as designed will not have any effect on the traffic nor will it cause a nuisance or serious hazard to vehicles or pedestrians. The building, driveways, walkways and open space are functional and are proper for the proposed use. The Board finds that the proposed use will not remove any existing low or moderate-income housing in the Town.

Accordingly, the Board makes the following findings pursuant to Sections 5.09 and 9.05:


1. The location, topography, vicinity and natural features of the site make it particularly suitable for the proposed two-story addition.
2. The use as proposed by the Petitioner will not adversely affect the neighborhood.
3. There will be no nuisance or serious hazard to vehicles or pedestrians.
4. Adequate and appropriate facilities will be provided for the proper operation of the proposed use.
5. The two-story addition to the existing mixed use commercial/retail building will not have a significant adverse affect on the supply of housing available for low and moderate income people.

Accordingly, the Board grants special permits pursuant to Sections 4.01.3.a, 4.01.3.b, 4.03, 4.07, 5.09.2.a, 5.09.2.h, and 5.09.3.e. The foregoing grants are made subject to the following conditions:

1. Sixteen underground parking spaces shall be available for use by employees of the building tenants at 1309 Beacon Street.
2. Parking for customers of 1309 Beacon Street shall be made available at 1299 and 1319 Beacon Street when possible, and new and appropriate signage shall indicate the availability of the additional parking. The new signage for the parking lot shall be approved by the Planning Board.
3. Prior to the issuance of a building permit, final design of facades, colors, and materials, shall be subject to the review and approval of the Assistant Director for Regulatory Planning.
4. The Petitioner will modify the parking lot in the manner set forth on the plan presented to the Board by FSL Associates. If any street trees are removed as a result of relocating the curb cut, such trees will be replaced in the manner and type recommended by the Town.
5. Prior to the issuance of a building permit, a final site plan, including landscaping, fencing, mechanical and dumpster equipment location, and revised parking layout shall be subject to the review and approval of the Assistant Director for Regulatory Planning.
6. Prior to the issuance of a building permit, a construction management plan, including parking locations for construction vehicles and rodent and dust control, shall be submitted for review and approval by the Transportation Director, and an approved copy submitted to the Planning and Community Development Department.

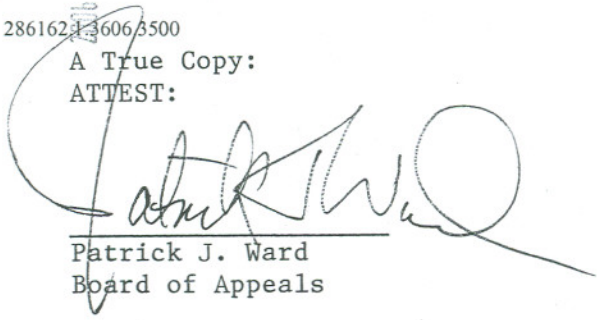
7. Prior to obtaining a building permit, the Petitioner shall submit to the Zoning Administrator for review and approval for conformance to the Board of Appeals decision: a) a final site plan and parking lay-out plan showing dimensions, stamped and signed by a registered land surveyor; b) final building elevations stamped by a registered architect and c) evidence that the Board of Appeals decision has been recorded at the Registry of Deeds.

Unanimous Decision of
The Board of Appeals


Diane R. Gordon

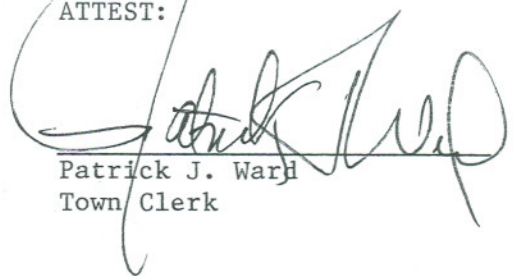
Filing Date: September 29, 2006

A True Copy:
ATTEST:


Patrick J. Ward
Board of Appeals

Twenty days have elapsed
and no appeal has been filed.

A True Copy:
ATTEST:


Patrick J. Ward
Town Clerk

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